

## Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

EB-07 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 TAR-01

TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00 OMB-01 FTC-01

DOTE-00 FMC-01 CG-00 OFA-01 DLOS-04 JUSE-00 IO-10

OIC-02 SIL-01 /110 W

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R 031610Z OCT 75

FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC 8429

LIMITED OFFICIAL USE SECTION 1 OF 2 GUATEMALA 5464

E.O. 11652 NA

TAGS: EWWT, GT

SUBJ: DELTA/FLOMERCA DISPUTE - NEW DEVELOPMENTS

REF: A. GUATEMALA 5196 B. GUATEMALA 4967 C. GUATEMALA 5199

SUMMARY: FLOMERCA BOARD OF DIRECTORS HAS BEEN REORGANIZED, NOW INCLUDES APPOINTEES OF PRESIDENT LAUGERUD, WHO WANTS CHANGES IN OPERATION. CHAMBER OF COMMERCE TAKING THEIR PROPOSED SOLUTION OF DELTA/FLOMERCA PROBLEM - MARITIME TAX - TO PRESIDENT. LATTER REPORTEDLY HAS IN MEANTIME SIGNED DECREE OF RATIFICATION OF UN CODE OF CONDUCT FOR LINER CONFERENCES, WHICH COULD SET UP YET ANOTHER NON-DISCRIMINATORY SHIPPING REGIME HERE BUT DOES NOT HAVE TO BE BROUGHT INTO EFFECT. GOG MAY BE TAKING ANOTHER LOOK AT PRESENT REGIME (DECREE 41-71) WITH A VIEW TOWARD REFORMING IT; AMBASSADOR ASENSIO MAY BE COMING HERE IN THIS CONNECTION. IN SUM, LOCAL SITUATION CHANGING, THOUGH IN NO SINGLE DIRECTION YET. PUBLICITY RE STR AND FMC HEARINGS AND OUTCOME COULD

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POLITICIZE MATTER, AND SLIM POSSIBILITY OF REFORM BENEFICIAL

BOTH TO GUATEMALA AND TO US SHIPPING WOULD BE PREJUDICED.  
END SUMMARY.

1. NUMBER OF DEVELOPMENTS HAVE OCCURRED HERE WHICH INDICATE SHIPPING SITUATION NOT FROZEN AND GUATEMALA MAY RPT. MAY BE MOVING TOWARD SYSTEM OF CARGO ASSIGNMENT WHICH LESS DISCRIMINATORY THAN CURRENTLY CHARGED BY DELTA IN HEARINGS BEFORE STR AND FMC.

A. REORGANIZATION OF FLOMERCA

I. ACCORDING TO MINISTER OF ECONOMY PALOMO IN TALK WITH EMBOFF SEPTEMBER 30, GOG - SPECIFICALLY PRESIDENT LAUGERUD - NOT HAPPY WITH FLOMERCA ORGANIZATION AND OPERATION. MARTINEZ DEL ROSAL, OTHERS ON BOARD OF DIRECTORS WERE POLITICAL APPOINTEES FROM ARANA REGIME. HAVE BEEN PROSPERING WHILE SHIPPING LINE HAS NOT. PALOMO REPORTED PRESIDENT WANTS CLOSER GOVERNMENT CONTROL OVER FLOMERCA AND HAS HAD BOARD OF DIRECTORS CHANGED. MARTINEZ STILL PRESIDENT. MIRON OUT AS MANAGER BUT REMAINS ON BOARD. AS DOES CLAUDIO RIEDEL (REPORTEDLY PART OWNER OF NEW PRIVATE LINE, LINEAS MARITIMAS GUATEMALTECAS). THESE THREE APPOINTEES HAVE POLITICAL STRENGTH (MARTINEZ IS IMPORTANT IN MLN PARTY) AND APPARENTLY ARE NOT MOVABLE NOW. REST OF NEW BOARD CONSISTS OF PRESIDENT'S MEN, PALOMO INDICATED AND ANOTHER SOURCE HAS CONFIRMED (JOSE BANUS, SHIPPING AGENT AND SHIPPING SPOKESMAN, CHAMBER OF COMMERCE). FOREMOST OF NEW APPOINTEES IS LIC. COL. EMILIO PERALTA PORTILLO, NEW HEAD OF CORFINA (GOG INDUSTRIAL DEVELOPMENT BANK AND HOLDER OF MOST STOCK IN FLOMERCA) WHO, ACCORDING TO BANUS, HAS BEEN GIVEN CHARGE TO TURN FLOMERCA AROUND; PERALTA IS NOW VP OF FLOMERCA. TWO PRIVATE-SECTOR REPRESENTATIVES HAVE BEEN BROUGHT IN - RUDOLFO NEUTZE AYCINENA, VP, CHAMBER OF COMMERCE; FORMER HEAD OF AGRICULTURAL CHAMBER; AND JUAN MIGUEL TORREBIARTE OF CACIF - COORDINATING COMMITTEE OF AGRICULTURAL, COMMERCIAL, INDUSTRIAL AND FINANCIAL CHAMBERS. (LAST TWO ARE NON-VOTING ALTERNATES).

II. UNDERSTAND THAT AS RESULT OF MIRON'S REMOVAL AS LIMITED OFFICIAL USE

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MANAGER, FLOMERCA BEING DEPICTED IN US AS NOW LEADERLESS AND INCAPABLE OF TAKING DECISIONS. ACCORDING TO BANUS, THIS IS NOT TRUE. THOUGH NEW MANAGER HAS YET TO BE APPOINTED, FLOMERCA BEING RUN NOW, AS BEFORE, BY MARTINEZ. MIRON IN PAST SAID TO HAVE MADE NO MOVE WITHOUT CONSULTING MARTINEZ. UNDERSTAND ALSO THAT IN US IT IS REPORTED THAT MIRON WAS REMOVED AS MANAGER BECAUSE ON HIS OWN SENT COMMUNICATION MAKING THE "IN-

SULTING" LAST OFFER TO DELTA, WHICH HAD NOT BEEN APPROVED BY THE BOARD. THIS NOT CHARACTERISTIC OF MIRON; MARTINEZ MUST HAVE KNOWN OF AND APPROVED OF OFFER, THOUGH PERHAPS REST OF BOARD DID NOT.

B. REVIVAL OF INTEREST IN MARITIME TAX

I. AS REPORTED REF. A, BILL INSTITUTING MARITIME TAX - TO PROVIDE SUBSIDY FOR FLOMERCA WITHOUT DISCRIMINATION AGAINST CARRIERS - UNDER CONSIDERATION IN GOVERNMENT. PALOMO SAID BILL WAS IN FOREIGN MINISTRY BUT INDICATED IT WAS NOT BEING GIVEN MUCH PRIORITY. BANUS SAID BILL MAY BE LOST SOMEWHERE. HOWEVER, CHAMBER OF COMMERCE ONCE AGAIN IS TRYING TO PUSH BILL THROUGH GOVERNMENT AND LATER CONGRESS, WITH CLEAR PROVISION ANNULLING DECREE 41-71. CHAMBER/CACIF HAD FAILED IN EFFORT REPORTED REF. B TO GET DECREE CANCELLED BECAUSE IT CONFLICTED WITH UNCTAD CODE OF CONDUCT FOR LINER CONFERENCES WHICH GUATEMALAN CONGRESS HAD RATIFIED (SEE BELOW). NOW CHAMBER PROPOSES TO MAKE PRESENTATION TO PRESIDENT, DRAWING HIS ATTENTION TO POSSIBLE CONSEQUENCES OF HEARING IN US, NON-DESIRABILITY OF INSTITUTING UN CONDUCT CODE, AND PREFERRED ALTERNATIVE OF MARITIME TAX BILL, WHICH WOULD, IN EFFECT, GRANT EQUAL ACCESS TO CARGO TO ALL LINES WHILE AT SAME TIME PROVIDING SUBSIDY TO FLOMERCA. BANUS HAS DRAFTED LETTER AND OCTOBER 1 SHOWED IT TO US; ONCE CLEARED BY CHAMBER, IT SHOULD GO FORWARD TO PRESIDENT.

II. AS REPORTED PREVIOUSLY, FLOMERCA SAID IT FAVORED MARITIME TAX BUT LATER REVERSED ITSELF. BOARD HAS NOW CHANGED, AND VP PERALTA REPORTEDLY MOST INTERESTED LIMITED OFFICIAL USE

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IN INSTITUTING TAX SYSTEM. REVENUE WOULD BE ROUTED TO CORFINA, AND IT WOULD LOAN FUNDS TO FLOMERCA FOR SPECIFIC OPERATIONS OR DEVELOPMENTS. GOG WOULD THUS GAIN CONTROL OF UTILIZATION OF INCOME FLOMERCA NOW RECEIVING FROM MONOPOLY POSITION UNDER DECREE 41-71. MIGHT CONCEIVABLY EXPAND AS MERCHANT FLEET, SOMETHING IT HAS NOT BEEN ABLE TO DO SINCE IT BECAME BENEFICIARY OF FAVORED TREATMENT IN 1966.

C. UN CODE OF CONDUCT

THOUGH DECREE 57-75 RATIFYING GUATEMALAN ADHERENCE TO UNCTAD CODE OF CONDUCT HAS NOT YET BEEN PUBLISHED IN OFFICIAL GAZETTE, BOTH PALOMO AND BANUS ASSERTED THAT PRESIDENT HAS SIGNED AND DECREE IS IN EFFECT. LAUGERUD'S POSITION WAS THAT GIVEN

GUATEMALAN SIGNATURE OF CONVENTION AND RATIFICATION BY CONGRESS,

HE COULD NOT BREAK STEP WITH MAJORITY LDC'S SIGNING AND REFUSE TO ACCEPT CODE. (IT IS RECOGNIZED THAT THE CODE ITSELF HAS A LONG WAY TO GO BEFORE IT IS BROUGHT INTO OPERATION; ALSO THAT UNTIL CONFERENCES ARE ESTABLISHED ON TRADE ROUTES TO/FROM GUATEMALA, THE CODE WILL NOT BE APPLICABLE HERE.) BANUS REPORTS, HOWEVER, THAT CACIF IS MOVING TO PERSUADE CONGRESSMEN TO CONSIDER WITHDRAWING RATIFICATION OF TALOY

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DOT-00 FMC-01 CG-00 OFA-01 DLOS-04 JUSE-00 IO-10

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R 031610Z OCT 75

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TO SECSTATE WASHDC 8430

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CODE. CACIF HERE IS ACTING ON INTEREST IN COMPLETELY OPENING UP SHIPPING SERVICE HERE AND AVOIDING ESTABLISHMENT OF LINER CONFS, MONOPOLIST GROUPS WHICH TEND TO RAISE FREIGHT RATES. EMBASSY, HOWEVER, NOT SANGUINE ABOUT SUCCESS CACIF WILL HAVE. IF CODE IS AND REMAINS IN EFFECT, IT DOES SUGGEST THAT LESS DISCRIMINATORY SHIPPING REGIME MAY OBTAIN IN GUATEMALA. DELTA PRESIDENT CLARK HAS SPECIFICALLY TOLD EMBOFF ON LATTER'S VISIT TO NEW ORLEANS (REF C) THAT 40/40/20 SPLIT OF CARGO ENVISIONED IN CODE WOULD BE TOTALLY

ACCEPTABLE TO DELTA.

D. ATTACHEMENT OF GOG TO DECREE 41-71

I. PREVIOUSLY, FLOMERCA AND ELEMENTS IN GOG THOUGHT DECREE 41-71 EMINENTLY DEFENSIBLE AND FLOMERCA WOULD WIN CASE BEFORE STR AND FMC. ACCORDING TO BANUS, CHAMBER OF COMMERCE REP (NAME NOT GIVEN) VISITED WASHINGTON RECENTLY ON BUSINESS AND TOOK OPPORTUNITY TO SEE GUATEMALAN AMBASSADOR ASENSIO AND GIVE LIMITED OFFICIAL USE

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HIM CHAMBER VIEW, SUPPORTIVE OF MARITIME TAX BILL. CHAMBER REPRESENTATIVE ALSO LAID OUT CONVICTION THAT FLOMERCA WILL LOSE AND COLLISION COURSE DISRUPTIVE OF SHIPPING BETWEEN US AND GUATEMALA WOULD THEN BE INEVITABLE. BANUS CLAIMS ASENSIO, WHO PREVIOUSLY STRONG DEFENDER OF FLOMERCA POSITION AND BELIEVER IN EVENTUAL FLOMERCA "VICTORY", STRONGLY INFLUENCED BY CHAMBER REPRESENTATION. ASENSIO NOW IS TO PROCEED TO GUATEMALA AND TALK TO FOREIGN MINISTER AND PERHAPS PRESIDENT ABOUT COLLISION COURSE. (HAS DEPT HEARD ASENSIO IS COMING HERE?)

II. UNDERSTAND THAT THERE IS SOME FEELING AMONG GUATEMALANS IN WASHINGTON THAT IF RULING IS AGAINST FLOMERCA, MATTER WILL BE ELEVATED TO US PRESIDENT AND INSTEAD OF TAKING RETALIATORY MEASURES, HE WILL DECIDE SIMPLY ON GOVT-TO-GOVT NEGOTIATIONS TO RESOLVE IMPASSE. PALOMO GAVE INDICATIONS OF THIS BELIEVE IN RECENT CONVERSATION WITH EMBOFF. LATTER TOOK OCCASION TO TRY TO CORRECT VIEW. HAS ALSO BRIEFED BANUS IN PREPARATION FOR CHAMBER'S MEETING WITH LAUGERUD. WOULD APPRECIATE, HOWEVER, A STATUS REPORT ON FMC HEARINGS AND SCENARIO THAT MIGHT FOLLOW IF FMC RULING IS AGAINST FLOMERCA. BANUS THINKS TIME FRAME ON SUCH FMC TRANSACTIONS IS VERY LONG, USUALLY SIX MOS. IN ADDITION, EMBASSY WOULD LIKE CONFIRMATION OF STATUS REPORT AND SCENARIO ON STR HEARINGS GIVEN IN ARTICLE IN JOURNAL OF COMMERCE SEPT 30.

III. PERHAPS USEFUL AT THIS POINT TO SPECULATE WHAT MIGHT OCCUR AFTER USG HEARINGS HELD. IF RULING ADVERSE TO FLOMERCA/GUATEMALA AND RETALIATORY MEASURES TAKEN, POLITICAL REACTIONS IN GUATEMALA MIGHT BE SUCH AS TO INHIBIT GOG FROM DOING ANYTHING FOR SOME TIME TO CHANGE SHIPPING REGIME. IF RETALIATION IS TAKEN AGAINST GUATEMALAN CARRIERS IN US, GOG COULD SIMPLY SUSPEND OPERATIONS TO/FROM US OF ITS MINISCULE FLEET (4 SHIPS), USE THEM ON OTHER ROUTES, AND LET

TRADE WITH US BE CARRIED BY ASSOCIATED LINES. ON  
OTHER HAND,IN REPORTEDLY UNLIKELY EVENT RULING IS  
FAVORABLE TO FLOMERCA, DECREE 41-71 LIKEWISE MIGHT  
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REMAIN IN EFFECT. IN EITHER EVENT PRESENT DISCRIMINATORY  
(TO US) AND UNSATISFACTORY (TO MANY HERE) REGIME MIGHT  
PERSIST, UNLESS TRULY DRASTIC MEASURES TAKEN BY US  
AGAINST ALL TRADE WITH GUATEMALA. PRESENT CONTENTION  
OVER CARGO ASSIGNMENT WOULD THUS ACCOMPLISH NOTM NG.

THIS POSSIBILITY SUGGESTED TO PALOMO, AND HE THEREUPON  
SEEMED TO BECOME INTERESTED IN CONSIDERING LONGER-  
RUN REFORM OF SHIPPING RATHER THAN LOOKING PURELY TO  
DEFEND GUATEMALAN "INTERESTS" IN CURRENT "TRIALS". ANY  
REFORM THAT MAY TAKE PLACE, PALOMO SAID, WOULD FACE  
OPPOSITION AND WOULD TAKE TIME; HE LEFT IMPRESSION  
HOWEVER, IT MIGHT BE WORTH EFFORT.

2. EMBASSY UNDERSTANDS THAT SUGGESTION HAS BEEN MADE THAT WE  
TRY TO PERSUADE FLOMERCA TO CONSIDER REOPENING NEGOTIATIONS  
WITH DELTA AND MAKING ANOTHER OFFER CLOSER TO WHAT DELTA  
SEEKING. INDEED PALOMO ASKED EMBOFF WHETHER ANY HOPE OF  
DELTA RESUMING TALKS WITH FLOMERCA. DELTA HAS, HOWEVER,  
CLEARLY INDICATED TO US IT NOT WILLING TO OPEN NEGOTIATIONS ON  
ANY GROUNDS, WANTS TO CARRY THROUGH HEARINGS TO BITTER  
END IN ORDER NOT ONLY TO GAIN EQUAL ACCESS TO CARGO HERE BUT  
ALSO TO MAKE GUATEMALA "AN EXAMPLE TO OTHER COUNTRIES". FUR-  
THERMORE, IF NEGOTIATIONS WERE RESUMED AND DELTA AND FLOMERCA  
REACHED AN AGREEMENT, DECREE 41-71 MIGHT CONTINUE TO REMAIN IN  
EFFECT AND THE DISCRIMINATORY ELEMENTS THEREIN WOULD CONTINU  
TO POSE PROBLEMS. OTHER US LINES WOULD BE DENIED EQUAL ACCESS  
TO IMPORT CARGO UNDER DECREE AND MIGHT FOLLOW DELTA LEAD AND  
INSTITUTE PROCEEDINGS ALL OVER AGAIN.

3. INSTEAD OF ENCOURAGING REOPEING OF NEGOTIATIONS, EMBASSY  
BELIEVES THAT CRUNCH NOW ON SHOULD BE ALLOWED TO CONTINUE AND  
GOG LEFT TO CONSIDER REFORM OF SHIPPING REGIME, ACCORDING TO  
SYSTEMS SUGGESTED IN UN CODE OF CONDUCT OR,PREFERABLY,  
MARITIME TAX BILL.

4. AS MENTIONED REF A, GOVT CONSIDERATION OF ALTERNATIVE  
REGIMES WILL BE IMMENSELY COMPLICATED IF ADVERSE RULING  
MADE AGAINST FLOMERCA AND PUBLICIZED,ALSO IF EMOTIONALIZED  
POSITIONS MADE DURING COURSE OF HEARINGS CONTINUE TO BE DIS-  
SEMINATED IN PRESS. (NO PICK UP YET IN NEWSPAPER HERE OF  
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JOURNAL OF COMMERCE STORY). RECOMMEND THEREFORE  
THAT USG EXECUTIVE ACTION BE TAKEN ONLY AFTER BOTH STR AND  
FMC HEARINGS ARE CONCLUDED; THE RESULTS OF THE LATER ONE CON-  
CEIVABLY COULD DIFFER FROM OR BE NOT WHOLLY COINCIDENTAL WITH  
THE RESULTS OF THE EARLIER ONE. WE WOULD ALSO RECOMMEND THAT  
PUBLIC PREJUDGEMENTS OF FINAL USG ACTION BE AVOIDED.

5. IF GOG IS MOVING TOWARD CONSIDERATION NEW, LESS DISCRIMINA-  
TORY SHIPPING REGIME, IT WILL NEED TIME. NOT ONLY MUST  
ALTERNATIVES BE DECIDED ON IN GOG (SUBJECT TO CONFLICTING  
POLITICAL INFLUENCES AND THE USUAL DELAYS), BUT GOVT  
MUST PUT A BILL TO CONGRESS AND PUSH IT THROUGH, A PROCESS THAT  
IS EVEN MORE HIGHLY POLITICIZED. NOT ONLY TIME IS NEEDED  
BUT AN ATMOSPHERE CONDUCTIVE TO DISPASSIONATE CONSIDERATION  
OF ALTERNATIVES. SUCH WILL NOT EXIST IF EARLY ANNOUNCEMENT  
OF FINAL DECISION BY USG IS MADE.  
MELOY

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